

Bell Springs

Layout Plan 1

Background Report

February 2013

Date endorsed by WAPC



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Amendment 2 - January 2020



Department of Planning,
Lands and Heritage



BELL SPRINGS LAYOUT PLAN 1

Bell Springs Layout Plan No. 1 (LP1) was prepared by the former Department of Planning during 2009-2010 in partnership with Wirrum Aboriginal Corporation (WAC), MG Corp and OES. The layout plan was prepared with a number of other Layout Plans prepared at that time in response to the outcomes of the Ord Final Agreement and the desires of the MG Dawang Land Trust and MG Corp. Bell Springs Community endorsed the Bell Springs LP1 on 3 September 2012.

Layout Plan 1 (LP1) was endorsed by the Shire of Wyndham-East Kimberley, on 22 January 2013 and the Western Australian Planning Commission (WAPC) endorsed the LP on 12 February 2013.

The WAPC endorsed one amendment in June 2018 to incorporate administrative changes to the layout plan map-set, no changes were made to the background report. The endorsed amendment is listed in part 6 of this report.

The Amendment 2 background report update sought to keep all relevant information, while removing and replacing out-of-date references and data. All temporal references in the background report refer to the original date of preparation, unless otherwise specified.

As part of the machinery of government (MOG) process, a new department incorporating the portfolios of Planning, Lands, Heritage and Aboriginal lands and heritage was established on 1st of July 2017 with a new department title, Department of Planning, Lands and Heritage. Since the majority of this report was finalised before this occurrence, the Department of Planning, Lands and Heritage will be referred to throughout the document. Other government departments mentioned throughout this document will be referred to by their department name prior to the 1st of July 2017.

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Community Contact Details

| | | |
|-----------------------------|---|---|
| Representative Organisation | : | Wirrum Aboriginal Corporation |
| Related Organisations | : | MG Corp MG Dawang Land Trust Pty Ltd Ord Enhancement Scheme |

Acronyms

| | | |
|---------|---|--|
| ABS | : | Australian Bureau of Statistics |
| AHA | : | Aboriginal Heritage Act (WA) 1972 |
| AHIS | : | Aboriginal Heritage Information System |
| ATSIC | : | Aboriginal and Torres Strait Islander Commission |
| CR | : | Crown Reserve |
| DoC | : | Department of Communities (Housing) |
| DIA | : | Department of Indigenous Affairs |
| DPLH | : | Department of Planning, Lands and Heritage |
| EHNS | : | Environmental Health Needs Survey |
| ILUA | : | Indigenous Land Use Agreement (under the Native Title Act 1993) |
| KDC | : | Kimberley Development Commission |
| KRSP | : | Kimberley Regional Service Providers |
| LP | : | Layout Plan |
| MG Corp | : | Yawoorong Miriuwung Gajerrong Yirrgb Noong Dawang Aboriginal Corporation |
| NNTT | : | National Native Title Tribunal |
| NTA | : | Native Title Act (Commonwealth) 1993 |
| NTRB | : | Native Title Representative Body |
| OES | : | Ord Enhancement Scheme |
| OFA | : | Ord Final Agreement (ILUA) |
| ORIA | : | Ord Irrigation Area |
| ORIC | : | Office of the Registrar of Indigenous Corporations |
| PBC | : | Prescribed Body Corporate (under the NTA, representing native title holders) |
| RAESP | : | Remote Area Essential Services Program |
| SL-lot | : | Settlement Layout Lot |
| SWEK | : | Shire of Wyndham-East Kimberley |
| WAC | : | Wirrum Aboriginal Corporation |
| WAPC | : | Western Australia Planning Commission |

Layout Plans & the Development Process

Layout Plans provide a guide for future development. Layout Plan preparation includes consultation with a range of relevant government authorities and agencies, but it does not constitute development approval.

It is the responsibility of the developer to ensure that all relevant consents, approvals, licences and clearances are in place prior to commencing physical works on the site.

Organisations responsible for such matters may include the landowner, local government, incorporated community council, native title representative body, native title prescribed body corporate, Aboriginal Cultural Materials Committee, Environmental Protection Authority, state and federal government departments, and other relevant regulatory authorities.

EXECUTIVE SUMMARY

Bell Springs Layout Plan No.1 (LP1) was prepared by the former Department of Planning during 2011 in partnership KDC, WAC, MG Corp and OES. LP1 is for Bell Springs, as defined under the Ord Final Agreement (ILUA).

The tables below summarise the main issues concerning planning, development and provision of services at Bell Springs. These issues are covered in more detail in the body of this report.

Table 1 – Population

| | | |
|---------------------------|---|-----|
| Design Population | : | 30 |
| Existing population | : | 22 |
| Existing Service Capacity | : | 100 |
| Aspirational Population | : | 30 |

Table 2 - Infrastructure and essential/social service characteristics at Bell Springs

| Infrastructure/service Indicator | Community Characteristics |
|---|--|
| Drinking water | Water obtained from bore. Limited data available on quality or quantity. |
| Native title | The community falls within a determined native title claim (MG #1 - WAD6001/95) with a registered ILUA in place. |
| Secure land holding(s) | Freehold conditional tenure land subject to conditions pursuant to s.75 of the <i>Land Administration Act 1997</i> . |
| Flood / storm surge | Low lying areas are subject to inundation. No damage to existing infrastructure is believed to occur. |
| Emergency assistance | Emergency services at Kununurra, approximately 20 minutes away by road. |
| Education | Education facilities at Kununurra, approximately 20 minutes away by road. |
| Health | Health facilities at Kununurra, approximately 20 minutes away by road. |
| Governance | Wirrum Aboriginal Corporation. No designated office at community. |
| Employment and enterprise opportunities | Ideally placed to commute to Kununurra for work. |
| Transport | Road access from Victoria Highway is via Crossing Falls Road and Fish Farm Road. |
| Food | Retail outlets at Kununurra, approximately 20 minutes away by road. |
| Electricity | Reticulated electricity supply provided by Horizon Power. |

LP1 plans for future expansion of the community and formalises existing infrastructure and land-uses and provides a future lot layout and road design.

DEVELOPMENT PRIORITIES

The following initiatives were undertaken in the six months leading to endorsement of LP No.1:

1. A full upgrade of water supply infrastructure.
2. Construction of a new house on SL-lot 3.

The following initiatives, were developed by the community in 2011 and considered to be needed to implement LP No.1:

Within the next 5 years:

1. Prepare Drinking Water Source Protection Plan.
2. Prepare an essential services strategy

Within the next 10 years:

1. Seal access road to community.

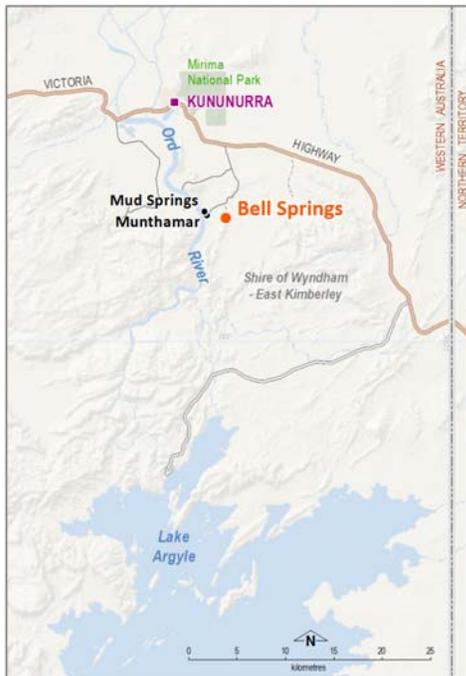
Implementing the LP

The implementation of this LP will rely on the energy and endeavour of the community members.

The future growth of Bell Springs will require community members to find solutions for the provision of services and infrastructure (such as housing and sealed roads). This reinforces the objectives of Wirrum Aboriginal Corporation to help bring about self support of its members, and to encourage members to manage their affairs on their own land.

1 REGIONAL CONTEXT

1.1 Location & Setting



Bell Springs is in the Shire of Wyndham-East Kimberley, located approximately 20 kilometres from Kununurra and a short distance from the Ord River.

The Ord River, known locally as *Gunanurang*, is one of Western Australia's major river systems. It has an estimated catchment of 50,000 sq km and flows from near Halls Creek in the south to the Cambridge Gulf in the north. This catchment is generally characterised by fertile soils and rich riparian systems.

The geography of the Ord River has significantly changed since the damming of the Ord in the 1970s. The Dam splits the river into the upper and lower Ord River systems. Whereas the river used to flow only seasonally, the dam has created a year-round flow of water suitable for irrigation purposes.

Figure 1 - Location of Bell Springs

The settlement and river system lie in the wet-dry tropics, which is characterised by an extended dry season with most rainfall occurring during December-March. Rainfall is highly variable (Lund 2009).

1.2 Regional Culture & Demography

The broader Ord River catchment area from the Bow River junction in the south to the Cambridge Gulf in the north is the country that now comprises the Miriuwung Gajerrong native title determination areas and is the traditional country of Miriuwung, Gajerrong, Doolboong, Wardenybung and Gija peoples (FCAFC 283 [2003] & FCA 1848 [2006]).

This catchment area consists of discrete land-holding units known locally as *Dawang*. Members of a Dawang (ie traditional owners), known as *Dawawang*, are the key decision-makers about their country under customary law. Some decisions about country are shared and jointly managed with agencies such as the former Department of Environment and Conversation and former Department of Water (Hill et al 2009; DoW 2009).

Traditional rights and interests in country stem from the *Ngarangani*, the creative Dreaming period, when mythical ancestors travelled the country, made the river systems and landscape and its features. During their travels they provided the framework about how the social and physical world should be (Barber & Rumley 2003).

Successive determinations of native title in 2003 and again in 2006 recognise and demonstrate the continuing strength of cultural connections to country among traditional owners in the Ord valley and catchment despite impositions associated with European settlement, pastoralism, and the extensive irrigation scheme.

Aboriginal residents comprise about half the total population of the Ord River Irrigation Area (ORIA). Aboriginal population growth is largely due to natural increase rather than in-migration. This means that, on a regional level, the Aboriginal population is younger, more permanent, stable, and fairly evenly comprised of males and females. The non-Indigenous population on the other hand is more influenced by in-migration and seasonal employment and disproportionately comprised of working-aged males (KLC 2003; Taylor 2003).

Whereas the non-Indigenous population is concentrated in the Kununurra townsite, the Aboriginal population is more dispersed, with many living in smaller settlements such as Bell Springs.

1.3 Regional History & Economy

As a population, local Aboriginal peoples have been integral to the historical development of the Ord Valley and East Kimberley. Firstly as integral labour to the pastoral economy, and later by providing a permanent and stable population for the provision of a government service economy. The inundation and irrigation of traditional country for the integration of the region into a market economy was at a direct but largely unrecognised cost to Miriung and Gajerrong peoples (see Skyring 2004; Redmond & Skyring 2009).

Station life

The initial occupation along the Ord River by pastoral interests from the 1880s was characterised by violence (Redmond & Skyring 2009). Aboriginal people at that time however were the only large and permanent population in the Kimberley, so by the 1920s were used as labour on stations such as Argyle Downs, Texas Downs, Lissadell and Ivanhoe. State legislation such as the *Native Administration Act 1936* (WA) bonded Aboriginal labour to pastoral leaseholders. The pastoral economy in the East Kimberley was predominantly made-up of an Aboriginal workforce until the 1970s. While this enabled many people to remain on traditional country, the workforce was paid in rations until equal wages legislation was introduced in the 1960s. This had the effect of marginalising Aboriginal people, over successive generations, from the regional economy even though their labour was integral to it (Skyring 2004; Jebb 2002).

By the mid 1950s serious consideration was being given by Federal and State governments to the development of the Ord River for irrigation purposes. The introduction of Commonwealth legislation in 1958 and 1968 saw the Federal government provide significant funding for the river's development. Construction of the Diversion Dam (ie Lake Kununurra) began in 1961 and was completed in 1963. By 1971 much of Argyle station, and other pastoral leases, had been flooded for the creation of the Ord Dam ('Lake Argyle'). Local Aboriginal people were not consulted in the planning and development of the Dam and broader irrigation area but were the population most affected by the river's development and the ensuing change to the natural environment and associated residential dislocation (Skyring 2004; see also Barber & Rumley 2003).

Town life

Kununurra townsite was established in 1960 on an excision of Ivanhoe Station on the Ord River, initially as a Water Authority centre for the irrigation project. It was gazetted as a town in 1961 and has since become the east Kimberley's main administrative centre.

The period from the 1970s until the 1980s can be characterised by the increasing urbanisation of Aboriginal populations in the Ord catchment. During this period, after the introduction of equal wages legislation and the creation of the irrigation scheme, relatively large numbers of former station workers moved into centres such as Kununurra, with an associated shift away from economic engagement in the private sector to an engagement in the government sector in the form of CDEP (Taylor 2003). Nulleywah reserve, on the outskirts of the town centre, was established in the 1980s as accommodation for people who had migrated from surrounding pastoral stations.

Voting rights in local government in Western Australia were restricted until 1985 to owners and occupiers of rateable property. This had the effect of excluding most Aboriginal people in the Shire of Wyndham-East Kimberley from local representation as Aboriginal people have generally lived on non-rateable land (Rumley H. & D. 1988).

There was no formal land-use planning of the Nulleywah reserve in Kununurra until the first layout plan was prepared as late as 1997 (Connell Wagner 2002). Poor living conditions in town spurred some Miriwung and Gajerrong family groups in the 1980s to establish camps and living areas at locations away from the town but within proximity to town services.

Community life

Using Commonwealth housing money Bell Springs was established as a community in the early 1990s. The community is an excision out of the Ivanhoe pastoral lease.

Creation of the community living area was formalised following completion of the Ord Final Agreement in 2006. Tenure for Bell Springs was settled in April 2011.

1.4 Native Title

Native title issues affecting Bell Springs

Bell Springs settlement falls within the Miriwung Gajerrong #1 native title determination area and is principally comprised of native title holders.

The application for determination of native title by Miriwung Gajerrong peoples comprised two claim areas, Miriwung Gajerrong #1 (WAD6001/95) (MG #1) and Miriwung Gajerrong #4 (WAD124/04) (MG #4). The two combined determination areas total approximately 14,000 sq km.

The native title holders referred to in this report refer to both determination areas. Separate PBCs exist for MG #1 and MG #4 determinations respectively.

Ord Final Agreement

Bell Springs falls within the Ord Final Agreement area, which is an 'area agreement' ILUA under the NTA and resolves native title issues associated with both the MG #1 MG #4 determination areas. The ILUA, commonly referred to as the 'OFA' or 'Ord Stage 2 Agreement', was registered with the National Native Title Tribunal in August 2006. The area subject to the OFA is shown in the map in Figure 2.

Key features of the OFA include:

- Recognition of Miriwung and Gajerrong peoples as the traditional owners for Kununurra and surrounding areas;
- The State's acquisition of 65,000ha of land for agricultural, residential and industrial development of Ord Stage 2;
- The creation of six new conservation parks and their joint management with the former DEC. The parks are held under freehold title by MG Corp and leased to the State;
- Clarification and agreement as to instances where native title is extinguished (including the granting of freehold titles) and where native title is not extinguished;
- The establishment of the Ord Enhancement Scheme (OES), to redress social, cultural and economic impacts that development of Ord Stage 1 has had on Miriwung and Gajerrong peoples, including the flooding of traditional country to create Lake Argyle and associated displacement of people;
- The creation of a 50,000ha freehold title (Yardungarrl) and 19 Community Living Areas.

The production of LP1 in collaboration with the Bell Springs community is therefore an indirect outcome of the broader native title process and the OFA.

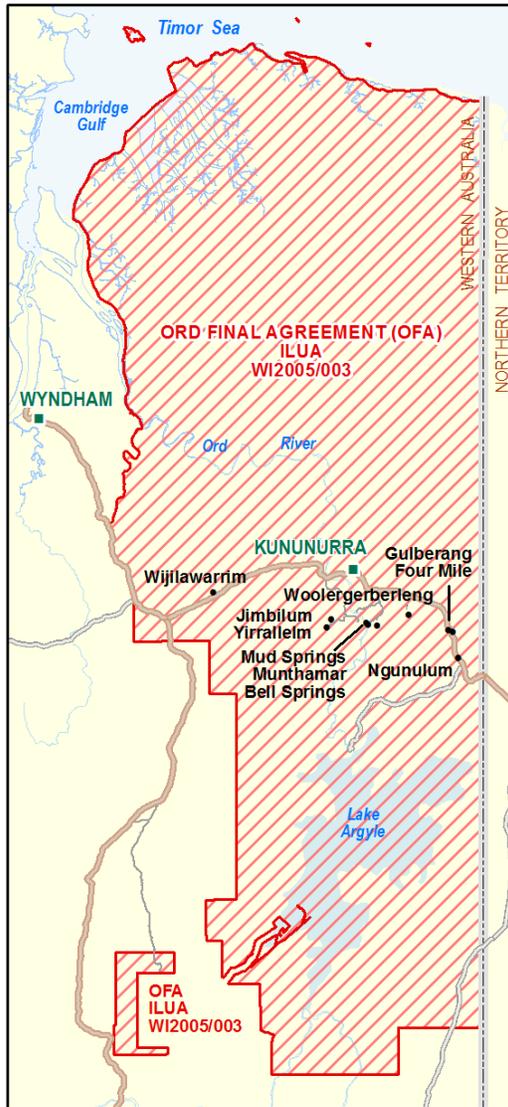


Figure 2 - Area subject to Ord Final Agreement & location of settlements

Background to Native Title in Australia

The *Native Title Act 1993* (NTA) enshrines in legislation the High Court Mabo decision, in which the common law of Australia formally recognised Indigenous rights and interests in land through the continuing observance of traditional law and custom.

Native title is defined by section 223 of the NTA as:

the communal, group or individual rights and interests of Aboriginal people or Torres Strait Islanders in relation to land or waters where:

the rights and interests are possessed under the traditional laws acknowledged, and the traditional customs observed, by the Aboriginal people or Torres Strait Islanders; and b) the Aboriginal people or Torres Strait Islanders, by those laws and customs, have a connection with the land and waters; and c) the rights and interests are recognised by the common law of Australia.

Native title is therefore not a form of land tenure, such as freehold or a crown lease. Rather it is the recognition of pre-existing rights and interests in country. Traditional rights and interests in country may co-exist with other non-Indigenous interests in some instances.

Under the NTA, native title holders and registered claimants are entitled to the right to negotiate regarding proposed future acts which may affect claimed or held native title. Examples of future acts which may affect native title rights and interests include mining exploration, the construction of public works (such as public housing), and the granting of certain forms of land tenure (such as freehold).

Also under the NTA, agreements called ILUAs can be entered into to clarify, eg, future acts that will not extinguish native title or how traditional owners are to be compensated for the extinguishment of traditional rights and interests.

More information about native title can be obtained from the [National Native Title Tribunal](http://www.nntt.gov.au/).

2 COMMUNITY PROFILE

2.1 Population

Estimating and predicting populations in Aboriginal communities is difficult because Aboriginal people tend to be mobile in terms of housing and living arrangements. Populations can increase and decrease quite rapidly based on family, cultural or administrative factors (Morphy 2010; Memmot et al 2004).

The community members of Bell Springs have close affiliations with other settlements in the MG Determination Area and there are regular movements of people throughout the region.

The Australian Bureau of Statistics (ABS) has advised that recent census data for Bell Springs is unavailable as the settlement was not included as a discrete collector district in either the 2001, 2006, 2011 or 2016 censuses. The only known published population estimates for Bell Springs are from the Environmental Health Needs Survey (EHNS) undertaken by the former Department of Indigenous Affairs in 1997, 2004 and 2008. These are:

| Population of Bell Springs | 1997 EHNS | 2004 EHNS | 2008 EHNS |
|----------------------------|-----------|-----------|-----------|
| Total persons | 15 | 22 | 22 |

In addition to the above, a key source of population data is from the community itself. Community members in 2011 confirmed the 2008 EHNS population figure of 22 people.

Based on the available data, the population of Bell Springs is estimated to be 22 people.

Aspirational population

Aspirational population refers to the future population as desired by the existing community.

Community members have advised that there are many members of their extended family who currently live in Kununurra and elsewhere who would relocate to Bell Springs if sufficient housing were available. The community however currently takes the view that to maintain cohesion in living arrangements, the aspirational population should be capped at 30. Circumstances may change in the future.

Existing Service Capacity

Bell Springs is connected to the Horizon Power main grid for power supply. There are therefore no restrictions to electricity.

A bore at approximately 260 metres from the nearest house provides the community's drinking water. A 100,000 litre tank provides adequate storage capacity and water supply pipelines have recently been upgraded.

Water testing carried out for MG Corp in May 2011 found no contamination and this reflects anecdotal evidence suggesting there are not problems with quality.

The total existing services capacity population for Bell Springs is 100 people.

Design population

Design population refers to the number of residents that the LP plans for. The design population takes into consideration the community's aspirational population, available population growth data, and the servicing and physical constraints.

One of the objectives of the LP is to ensure that community residents are provided with an appropriate level of services and housing throughout the 15 year time frame of the LP, by coordinating infrastructure provision with population growth.

As Bell Springs is connected to the reticulated electricity service, the provision of an adequate and safe drinking water supply is potentially the main constraint to the growth of the settlement.

In light of this, the design population for Bell Springs is 30 people.

2.2 Governance & Representation

Over time Miriwung and Gajerrong peoples have developed their own sophisticated formal governance structures, at various spatial scales to assist with the delivery of services and local representation.

The various governance structures that affect the planning and development of Bell Springs are summarised below.

Incorporated Community

The community is managed through its incorporated body - Wirrum Aboriginal Corporation (WAC). Wirrum Aboriginal Corporation was incorporated under the *Aboriginal Councils and Associations Act 1976* in 2003.

The aims of WAC are as follows:

- (a) principally to hold title to land; and
- (b) not for profit organisation

WAC is registered with the Office of the Registrar of Indigenous Corporations (ORIC). WAC documents can be obtained from www.oric.gov.au

Dawang Council

The 16 Dawang that comprise the traditional lands of Miriwung Gajerrong peoples are represented by an over-arching Dawang Council. Membership of the Dawang Council is regulated under the incorporated rulebook of MG Corp.

MG Corp

At a broader governance level, MG Corp acts in trust on behalf of all MG native title holders to ensure compliance with its obligations under the Ord Final Agreement including those relating to community living areas.

MG Corp was incorporated under the *Corporations (Aboriginal and Torres Strait Islander) Act 2006* in 2006 and its constitution was subsequently amended in 2008. Although membership to MG Corp is limited to native title holders, MG Corp is not a native title prescribed body corporate. However MG Corp has the authority to assist MG peoples in relation to planning, management and use of traditional lands.

MG Corp (or a subsidiary entity of MG Corp such as MG Dawang Land Pty Ltd) may hold titles to land transferred under the OFA, though this is not the situation with regard to land holdings at Bell Springs.

Ord Enhancement Scheme

The Ord Enhancement Scheme (OES) is an outcome of the OFA and is a partnership between MG Corp and the State Government through the Kimberley Development Commission (KDC). The purpose of the OES is to address the negative social and economic impacts that Stage 1 of the irrigation scheme has had on Miriuwung and Gajerrong peoples (see KLC 2004).

The OES Management Committee is jointly appointed by the State and MG Corp.

2.3 Land Tenure

Bell Springs is located on a 42.17ha conditional freehold land parcel (Lot 930). The land was transferred to the community in 2011 as an outcome of the Ord Final Agreement.

2.4 Aboriginal Heritage

Notwithstanding the below, the following discussion of heritage matters derives from discussion with community representatives and a desk-top survey of sites registered under the AHA 1972 using the [Aboriginal Heritage Inquiry System](#) (AHIS).

The purpose of the following discussion is to foreshadow heritage constraints to development as they relate to the implementation of the LP. These constraints to development must be addressed prior to construction of housing and other works.

No-Go Area

The community has advised that there are registered cultural sites and other heritage places in the vicinity of the living area. However there are not any 'no-go' areas depicted on LP No.1.

Registered Sites

There are 2 registered sites and 4 other heritage places in the vicinity of the Bell Springs settlement, as of November 2019.

All sites are mythical in nature, meaning that they relate to the creation of country under customary law. Some sites are also associated with physical artefacts, skeletal material, and engravings.

Any future development at the community, including implementing LP No1, should therefore be undertaken in consultation with the community and MG Corp on behalf of the native title holders to ensure adequate avoidance of sites.

Built Heritage

There are no areas or structures of build heritage at Bells Springs.

Impact of Aboriginal Heritage on Development of Settlements

The *Aboriginal Heritage Act 1972* (AHA) was introduced in Western Australia to provide automatic protection for all places and objects in the State that are important to Aboriginal people because of connections to their culture. The Department of Planning, Lands and Heritage maintains a Register of Aboriginal Sites as a record of places and objects of significance to which the AHA applies. Unregistered sites of cultural significance to Aboriginal people are also protected under the State Government's *Aboriginal Heritage Act 1972*, but only registered sites are recorded on the Department's database and are generally included in the Aboriginal Heritage Inquiry System.

The presence of an Aboriginal site places restrictions on what can be done to the land. Under the AHA it is an offence for anyone to excavate, damage, destroy, conceal or in any way alter an Aboriginal site without obtaining the appropriate approvals. This applies to the development of Aboriginal settlements as it does any other type of settlement. Investigation whether there is an Aboriginal heritage site on the land must be undertaken prior to development or works, and may require a heritage survey or clearance.

Contact should be made with the relevant Native Title Representative Body in the first instance.

No formal heritage assessment under the *Aboriginal Heritage Act 1972* has been undertaken as part of the preparation of this LP. The LP background report and map-set do not represent clearance under that Act in any way. It is expected that any future development of housing and other infrastructure on the community be undertaken in consultation with the community and native title holders and cleared in accordance with the provisions of the AHA.

2.5 Community Aspirations

The ideas for improvements to the facilities noted by the Bell Springs community when developing the Layout Plan are listed below. Where possible, these have been incorporated into the recommended program of works for the LP. Others that cannot be implemented as part of the LP have been noted as a record of a more general community improvement plan.

1. Provide housing to the aspirational population.
2. Provide a quality living environment to live in and work from.
3. Seal access road to community.

3 EXISTING INFRASTRUCTURE & SERVICES

3.1 Housing

Existing Situation

At present there are five houses at Bell Springs. These houses are currently occupied and in good condition.

Based on 5 habitable dwellings at the settlement and a usual permanent population of 22 people, the average number of residents per house is 4.4.

Essential Services

3.2 Water Supply

| | |
|-----------------------------|--|
| Bore | A Bore 260m south east of nearest house is used for community water supply Bore compound is not fenced. |
| Water tank | 1 main tank approximately 400m east north east of nearest house. Tank elevated on stand. 100,000L capacity. Water tank compound is not fenced Water tank is in good condition. |
| Water distribution | The elevation of the tank permits gravity feed of water. . Water pressure is good at the current level. |
| Water treatment and testing | No consistent water treatment or testing. |

Water quality testing was undertaken in May 2011 as part of the assessment of essential services prior to housing development at Bell Springs. Water quality was found to be good and this is consistent with community reporting.

No disinfection or other treatment of the water occurs, which means that on health grounds there should be periodic assessment of water quality. The WAPC 'Aboriginal Settlements Guideline 3: Layout Plan Exclusion Boundaries' policy 2012 recommends a 500m buffer for groundwater drinking water sources.

3.3 Electricity Supply

Bell Springs is located in the Kununurra Electricity Licence Area, for which Horizon Power is the licensed electricity supplier. Bell Springs is connected to the reticulated electricity service provided by Horizon Power. The settlement received an LV distribution system upgrade in 2006 when the Kununurra supply was extended to the area.

Horizon Power provides a master meter for the Bell Springs connection.

3.4 Wastewater

Bell Springs disposes of its wastewater via septic tanks and leach drains. Community members raised no major issue with this system.

Municipal Services

3.5 Flooding & Drainage

The Bells Creek land holding is on low country that comprises part of an extensive floodplain for the pre-dam Ord River. The community itself is on slightly elevated land that has reasonable drainage. Access roads to the community however, are on lower ground that suffers water logging and sometimes flooding during wet periods.

This situation does not provide a constraint to the development of the community, but it does seasonally affect access.

3.6 Access & Dedicated Roads

Access to Bell Springs from Victoria Highway is via Crossing Falls Road and Fish Farm Road. Crossing Falls Road is a dedicated road with a bitumen surface and is maintained by the Shire of Wyndham - East Kimberley.

Fish Farm Road is an access reserve (Reserve 46265, reserve without management order) that provides legal road access to the settlements of Mud Springs, Munthamar and Bell Springs. There is no dedicated responsibility for maintenance of the gravel road.

3.7 Internal Road Layout

The internal road layout of Bell Springs is comprised of the access road into the settlement from Fish Farm Road (compacted gravel) and a network of reasonably formal tracks leading to dwellings and community infrastructure. The road network also takes into consideration future service alignments and existing drainage lines, and is maintained by the layout plan.

3.8 Rubbish Disposal

Community members dispose of their own rubbish in the licensed rubbish tip in Kununurra.

3.9 Community Services

Residents of Bell Springs generally commute to Kununurra for community services such as education and health care, as well as commercial activities such as retail and banking.

There is one formal workshop to the north side of the living area located on SL-lot 6 which is utilised as a community facility.

3.10 Commercial Enterprise

There is no designated office at the community.

4 RECOMMENDATIONS

4.1 Essential & Municipal Service Delivery

There is a lack of clarity with regard to which agency or agencies are responsible for funding and delivery of essential and municipal services to MG Corp communities.

Implementing the layout plan will be difficult until such time that specific agencies are identified for, for example, the funding of drinking water analysis and protection, sealing of roads, and reticulation of power and wastewater.

In normal circumstances municipal services in townsites (such as the maintenance of access roads and collection of rubbish) would be undertaken by local government. Larger remote Aboriginal communities with a population greater than 50 permanent residents generally fall within the Remote Area Essential Service Program (RAESP) managed by the Department of Communities (Housing). The smaller MG communities fall outside of these two categories.

It is beyond the scope of the LP to allocate responsibility for provision of municipal and essential services and their ongoing funding arrangements.

4.2 Joint Essential Service Infrastructure

The proximity of Bell Springs to Munthamar and Mud Springs provides an opportunity for the sharing of essential service infrastructure.

4.3 Drinking water analysis and protection

The unknown quality and quantity of the existing drinking water supply at Bell Springs may limit the potential growth of the settlement in the future. It is therefore recommended that appropriate analysis of the settlement's drinking water supply occurs, in order to determine compliance with the Australian Drinking Water Guidelines and whether the sustainable yield meets current and projected usage levels. This should occur prior to any significant investment at Bell Springs in the future.

An assessment of the drinking water supply could be undertaken as part of the preparation of a Drinking Water Source Protection Plan (DWSPP) for Bell Springs. In order to ensure that existing and future drinking water supplies are appropriately protected, a DWSPP should be prepared by the appropriate agency. Such a plan would incorporate monitoring and maintenance requirements, estimates of groundwater flow directions, estimation of aquifer resources, likely zones of influence of production bores and an assessment of the potential for contaminants to impact water supplies. DWSPPs also define areas of land within which land uses are restricted in order to protect drinking water that is harvested within that area, and are based on hydrological analysis of the particular circumstances of the water source and the settlement/s it serves.

It is acknowledged that analysis of the existing water supply or the preparation of a DWSPP is unlikely in the immediate future, given that no agency has responsibility for the provision of essential services to Bell Springs.

4.4 Future housing

Based on a residential density of 4.4 people per house, Bell Springs would require 7 houses in total to accommodate the aspirational population of 30.

The LP shows 9 residential SL-lots in total. The community can accommodate its aspirational population on these 9 lots. Future development beyond the aspirational population may need to occur through subdivision or consolidation.

4.5 Road layout

The road layout depicted in the LP generally reflects the simple settlement layout (SL) roads system that currently exists at the settlement. All roads should be sealed and bituminised in the future when funds to do so become available to reduce issues of dust generation.

SL roads are generally 20m in width. A simple system of table drains should be incorporated into the road verges as the road network is formalised to assist with stormwater conveyance. The SL road network should also be used as the alignment for essential service infrastructure such as power lines and water pipes.

4.6 Lot numbering

The LP assigns a settlement layout lot (SL-lot) number to every designated land area at Bell Springs. A simple road naming system has also been employed. The purpose of this is to provide a unique identifier to each designated land area for administrative purposes and to assist with the delivery of essential/emergency services.

The SL-lot numbers have been adopted as a guide only, and do not exist in any legal sense. SL-lot numbers can change subject to approval from WAC and endorsement by the Western Australian Planning Commission.

4.7 Wastewater Disposal

There are no known problems posed by the existing septic tank and leach drain system of effluent disposal. This situation should be periodically monitored.

Any effluent disposal system will need to comply with the specifications of the Department of Health and the Shire's Environmental Health Department. It is also recommended that the settlement's drinking water supply be periodically tested in order to identify any potential contamination.

5 PLANNING FRAMEWORK

5.1 State Planning Policies

State Planning Policies (SPPs) are prepared and adopted by the WAPC under statutory procedures set out in section 26 of the *Planning and Development Act 2005*.

The WAPC and local governments must have 'due regard' to the provisions of State Planning Policies when preparing or amending town planning schemes and when making decisions on planning matters. The State Administrative Tribunal is also required to take SPPs into account when determining appeals.

The following SPPs were given due regard in the preparation of LP No. 1:

- SPP 3 Urban Growth and Management;
- SPP3.2 Planning for Aboriginal Communities; and
- SPP2.7 Public Drinking Water Source

5.2 Exclusion Boundaries

The exclusion boundaries shown on the map-set are in accordance with the WAPC's Aboriginal Settlements Guideline 3: Layout Plan Exclusion Boundaries.

5.3 Shire of Wyndham-East Kimberley

Local Planning Scheme No. 9

The Shire of Wyndham-East Kimberley Local Planning Scheme No. 9 (LPS 9) was gazetted on 19 February 2019.

Bell Springs is zoned settlement under LPS 9 which identifies existing and proposed Aboriginal settlements and to collaboratively plan for the orderly and proper development of those places.

Under the Scheme, preparation and endorsement of a layout plan in accordance with State Planning Policy 3.2; and ensuring that development accords with a layout plan is a requirement of the settlement zoning (see current Scheme zoning in Figure 3 on the following page).

LPs 9 states development in the settlement zone is to accord with an endorsed layout plan and provide for:

- (a) a mix of land uses typically found in Aboriginal Settlements, including light industrial, tourism, residential, commercial, community, recreation and public utility; protecting sensitive areas such as No Go areas and drinking water source protection areas from inappropriate development.
- (b) traditional law and culture.

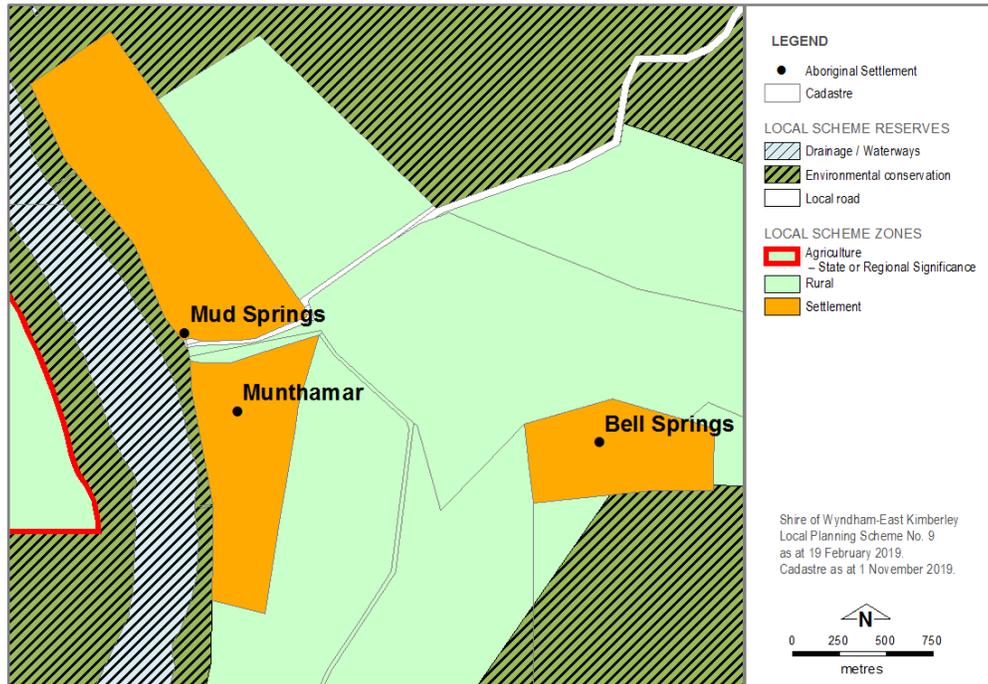


Figure 3 - Land classification under SWEK TPS 9 - Bell Springs, Mud Springs and Munthamar

Local Planning Strategy

The Shire of Wyndham-East Kimberley Local Planning Strategy (endorsed by the WAPC 21 August 2019) provides a vision for the growth and development of the Shire over a 10-15 year time frame. The strategy notes that layout plans should be prepared for all remote settlements, and should incorporate planning for infrastructure within and to these settlements and that existing layout plans within the Shire should be reviewed for currency.

6 ENDORSEMENTS

Bell Springs Community Layout Plan No.1

PO Box 43
Kununurra
WA 6743

The Wirrum Aboriginal Corporation (representing the community) hereby adopts the **Bell Springs Community Layout Plan No. 1 (2011)** as a guide for future development within its boundaries.

The elected council acknowledges that the layout represents community aspirations for future development, and hereby adopts the plan, report and provisions at the meeting held on:

The3.....Day of9.....~~2011~~ 2012

Adopted by the Wirrum Aboriginal Corporation:

Dennis Peart

Director
[Please print and sign name]

[Signature]

Director

Georgina Wilson

Director

[Signature]

Director

HARLAN PEART

Director

[Signature]

Director



Bell Springs Community Layout Plan No.1

PO Box 2110
Kununurra WA 6743

MG Corporation (representing the traditional owners of Miriuwung Gajerrong #1 & #4 native title determinations) hereby adopts the **Bell Springs Community Layout Plan No. 1 (2010)** as a guide for future development within the native title determination area.

The Board acknowledges that the layout represents community aspirations for future development, and hereby adopts the plan, report and provisions at the meeting held on:

TheDay of2011

Adopted by the MG Corporation Board:

| | |
|--|--|
| _____ | _____ |
| Director [Please print and sign name] | Director [Please print and sign name] |
| _____ | _____ |
| Director | Director |
| _____ | _____ |
| Director | Director |
| _____ | _____ |
| Director | Director |



Bell Springs Community Layout Plan No. 1

PO Box 614
Kununurra WA 6743

The Shire of Wyndham-East Kimberley hereby adopts the **Bell Springs Community Layout Plan No. 1 (2011)** as a basis for future growth and development within Bell Springs community.

The 22 Day of January 2013

Endorsed by the Shire of Wyndham-East Kimberley:



JOHN MOULDEN

Shire President
(Please print and sign name)



GARY GAFFNEY

CEO
(Please print and sign name)

Council
Seal



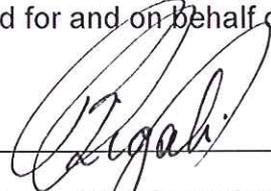
Bell Springs Community Layout Plan No. 1

140 William Street
Perth WA 6000

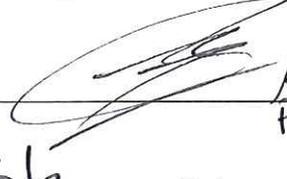
The Western Australian Planning Commission hereby endorses the **Bell Springs Community Layout Plan No. 1 (2012)** as a guide for development to ensure proper and orderly planning within the community area

The¹².....Day of^{February}..... 201~~2~~³ *h.*

Signed for and on behalf of the Western Australian Planning Commission



an officer of the Commission duly authorised by the Commission pursuant to section 24 of the *Planning and Development Act 2005* in the presence of

 *A. Rindell*
_____ *Plng Mayor - Abj - Committee.* Witness

13 Feb _____ Date

RESOLVED & RECORDED IN MINUTES
OF THE STATUTORY PLANNING
COMMITTEE MEETING
12 FEB 2013

CONSULTATION & REFERENCES

CONSULTATION SUMMARY

Preparation of this Community Layout Plan is the result of consultation with the community representatives and a range of agencies, authorities, non-government organisations during 2011.

Information was obtained from the following sources.

| Organisation | Date |
|---|------------------------------------|
| Bell Springs site visits | Sept 2011 Oct 2011 July 2012 |
| MG Corp/OES | Oct 2011 |
| Australian Bureau of Statistics | June 2011 |
| State Land Services, Department of Regional Development & Lands | July 2011 |
| Department of Indigenous Affairs | June 2011 |
| Department of Housing | July 2011 |
| Shire of Wyndham-East Kimberley | Oct 2011 |
| Landgate | Oct 2011 |
| Horizon Power | Oct 2011 |
| Department of Water | Oct 2011 |

REFERENCE

Barber, K. & H. Rumley 2003 'Gunanurang: (Kununurra) Big River. Aboriginal Cultural Values of the Ord River and Wetlands'. Study and report prepared for the Water and Rivers Commission, Perth, WA.

Department of Indigenous Affairs (DIA) 2004 *Environmental Health Needs Survey of Indigenous Communities in Western Australia*. Government of Western Australia.

Department of Water (DoW) 2009 *Ord catchment subregion overview and future directions: Kimberley regional water plan working discussion paper*. Department of Water, Perth.

Department of Water (DoW) 2008 'Small indigenous community water supply infrastructure report', unpublished report prepared by Dean Matthews and Kellie Loge from the Department of Water, Kimberley Region.

Hill, R. Miriuwung-Gajerrong People, D. Hill, D. Moncrieff, S. Goodson, L. Bullen 2009 *Yoorrooyang Dawang Joint Planning Guidelines for the Preparation of Management Plans for Conservation Reserves under the Ord Final Agreement*. Department of Environment and Conservation, Perth, WA.

Jebb, M. 2002 *Blood, Sweat and Welfare: A History of white bosses and Aboriginal pastoral workers*. UWA Press: Crawley, WA.

Kimberley Land Council (KLC) 2004 'Ord Stage 1: Fix the Past, Move to the Future. Aboriginal Social and Economic Impact Assessment of the Ord River Irrigation Project'. Unpublished report by the KLC, Broome.

Lund, M. 2005 'An ecological risk assessment of irrigation in the Ord River catchment, a highly disturbed and poorly understood area in the wet-dry tropics of Australia'. In Proceedings of the 4th Australian Stream Management Conference 2004. (Ed. I Rutherford). Launceston, Tasmania.

Memmot, P. & S. Long & M. Bell & J. Taylor & D. Brown 2004 *Between Places: Indigenous Mobility in Remote and Rural Australia*. Australian Housing & Urban Research Institute, University of Queensland.

Morphy, F. 2010 *Population, People and Place: The Fitzroy Valley Population Project*. CAEPR working paper no. 70/2010. Centre for Aboriginal Economic Policy Research, Australian National University, Canberra.

Redmond, T. & F. Skyring 2009 'Exchange and appropriation: the *Wurnan* economy and Aboriginal land and labour at Karunjie Station, North-Western Australia', in Ian Keen (ed) [in press] *Indigenous Participation in Australian Economies: Anthropological and Historical Perspectives*. ANU Press: Canberra.

Skyring, F. 2004 'History, development and Ord 1 today', in Kimberley Land Council (KLC) 'Ord Stage 1: Fix the Past, Move to the Future. Aboriginal Social and Economic Impact Assessment of the Ord River Irrigation Project'. Unpublished report by the KLC, Broome.

Taylor, J. 2003 *Aboriginal Population Profiles for Development Planning in the Northern East Kimberley*. Research monograph no. 23. Centre for Aboriginal Economic Policy Research, Australian National University, Canberra.

AMENDMENTS

Bell Springs Layout Plan No. 1

Amendment No. 1

| |
|---|
| Proponent : Department of Planning, Lands and Heritage |
| Date : 14 June 2018 |

Reason for the Amendment

The Department of Planning, Lands and Heritage (DPLH) proposes Amendment 1 to Bell Springs Layout Plan 1. Amendment 1 is in response to the latest aerial image of Bell Springs that was captured in August 2016 by Landgate. The amendment proposes minor administrative changes to improve the accuracy of the layout plan by matching the SL-lot framework with the existing development footprint as shown in the air photo. The proposed amendment will improve the accuracy and efficiency of LP1 and assist future growth and development in Bell Springs.

| Land Identification | | Amendment description |
|---------------------|-------------------------------|---|
| 1. | Open space east of Water Road | Create a new SL-lot 20, assign 'community' land use and label as 'cemetery', based on existing cemetery as shown in the 2016 air photo. |
| 2. | SL-lot 15 (Water tank) | Expand SL-lot boundary to match water tank area as shown in the 2016 air photo. |

Endorsement:

In accordance with Planning Bulletin 108/2013 this amendment is minor in nature. As such, the endorsement of the Western Australian Planning Commission is solely required.

| | |
|---|--|
| Determined on behalf of the Western Australian Planning Commission in accordance with the <i>Instrument of Delegation – Delegation to officers of certain powers and functions of the Western Australian Planning Commission.</i> |  18/06/2018 Ashley Randell Director, Regional Planning Policy Regional Planning PN: 15151 |
|---|--|

Other Information:

This Layout Plan does not constitute development approval.

It is the responsibility of the developer to ensure that all relevant consents, approvals, licences and clearances are in place prior to commencing physical works on site. Organisations responsible for such matters may include landowner, local government, incorporated community council, native title representative body, Aboriginal Cultural Materials Committee and Department of Water and Environmental Regulation.

Bell Springs Layout Plan No. 1

Amendment No. 2

| |
|---|
| Proponent : Department of Planning, Lands and Heritage |
| Date : 17 th January 2020 |

Reason for the Amendment

The enactment of the Shire of Wyndham-East Kimberley (SWEK) Local Planning Scheme 9 (LPS 9), gazetted on 19 February 2019, has resulted in the need to delete the 'Recommended Settlement Zone' and add the 'Settlement' zone to match the LPS 9.

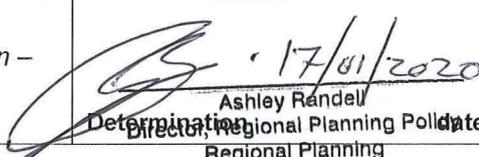
DPLH has also undertaken an update of the Layout Plan background report to ensure that it remains up-to-date, accurate and fit-for-purpose. The update includes:

- Revising the population and housing data;
- Editing and reformatting the background report;
- Removing out of date text and references

| Land Identification | | Amendment description |
|---------------------|-----|---|
| 1. | All | Delete the 'Recommended Settlement Zone'. Add 'Settlement' zone to match the SWEK LPS 9. |
| 2. | All | Update the Background Report. |

Endorsement:

In accordance with Planning Bulletin 108/2013 this amendment is minor in nature. As such, the endorsement of the Western Australian Planning Commission is solely required.

| | |
|---|--|
| Determined on behalf of the Western Australian Planning Commission in accordance with the <i>Instrument of Delegation – Delegation to officers of certain powers and functions of the Western Australian Planning Commission.</i> |  17/01/2020 Ashley Randell Director, Regional Planning Policy Regional Planning PN: 15151 |
|---|--|

Other Information:

This Layout Plan does not constitute development approval.

It is the responsibility of the developer to ensure that all relevant consents, approvals, licences and clearances are in place prior to commencing physical works on site. Organisations responsible for such matters may include landowner, local government, incorporated community council, native title representative body, Aboriginal Cultural Materials Committee, Environmental Protection Authority and Department of Water and Environmental Regulation.